MAY 23 1967 SUPREME COURT, U. S.

Supreme Court of the United States

October Term, 1966

No. 1386

ADAM CLAYTON POWELL, JR., et al.,
Plaintiffs-Petitioners,

against

JOHN W. McCORMACK, et al.,
Defendants-Respondents.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

MOTION OF THE RIGHT REVEREND ANSON PHELPS STOKES, JR., CHAIRMAN, PETER L. ALBRECHT, THE REVEREND GILBERT CALDWELL, MRS. ELLEN JACKSON, MRS. ERWIN C. MILLER, AS THEY ARE THE EXECUTIVE COMMITTEE OF, AND THE REVEREND JAMES P. BREEDEN, AS HE IS THE EXECUTIVE DIRECTOR OF, THE COMMISSION ON CHURCH AND RACE, MASSACHUSETTS COUNCIL OF CHURCHES; GREATER BOSTON INTERDENOMINATIONAL INTERRACIAL MINISTERIAL ALLIANCE; AND THE REVEREND GILBERT S. AVERY III, DR. AND MRS. ROBERT BELENKY, MR. AND MRS. WILLIAM I. BENNETT, THE REVEREND AND MRS. EDWARD B. BLACKMAN, THE REVEREND ROBERT CUNNANE, MR. AND MRS. PAUL CHAPMAN, THE REVEREND WILLIAM ENGLAND, THE REVEREND NORMAN FARAMELLI, E. A. FURSHPAN, Ph.D., MR. AND MRS. PAUL K. GAZIN, THE REVEREND AND MRS. JOHN J. HARMON, E. A. KRAVITZ, Ph.D., MRS. BRADFORD PATTERSON, THE REVEREND SCOTT PARADISE, MRS. JANE C. PECK, DAVID D. POTTER, Ph.D., THE REVEREND JOHN RUTLAND, RICHARD L. SIDMAN, M.D., THE REVEREND DAVID SIEGENTHALER, THE REVEREND JOHN SNOW, ANDREW T. WEIL, MERRILL K. WOLF, M.D. AND JOSEPH K. YOUNGERMAN, AS THEY CONSTITUTE CITIZENS FOR HUMAN RIGHTS, AN UNINCORPORATED ASSOCIATION, FOR LEAVE TO FILE BRIEF *AMICUS CURIAE*

PETER L. ALBRECHT,
Attorney for Amici Curiae.

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Motion of The Right Reverend Anson Phelps Stokes, Jr., Chairman, Peter L. Albrecht, The Reverend Gilbert Caldwell, Mrs. Ellen Jackson, Mrs. Erwin C. Miller, as they are the Executive Committee of, and The Reverend James P. Breeden, as he is the Executive Director of, the Commission on Church and Race, Massachusetts Council of Churches; Greater Boston Interdenominational Interracial Ministerial Alliance; and The Reverend Gilbert S. Avery III, Dr. and Mrs. Robert Belenky, Mr. and Mrs. William I. Bennett, The Reverend and Mrs. Edward B. Blackman, The Reverend Robert Cunnane, Mr. and Mrs. Paul Chapman, The Reverend William England, The Reverend Norman Faramelli, E. A. Furshpan, Ph.D., Mr. and Mrs. Paul K. Gazin, The Reverend and Mrs. John J. Harmon, E. A. Kravitz, Ph.D., Mrs. Bradford Patterson, The Reverend Scott Paradise, Mrs. Jane C. Peck, David D. Potter, Ph.D., The Reverend John Rutland, Richard L. Sidman, M.D., The Reverend David Siegenthaler, The Reverend John Snow, Andrew T. Weil, Merrill K. Wolf, M.D. and Joseph K. Youngerman, as they constitute Citizens for Human Rights, an unincorporated association for Leave to File Brief *Amicus Curiae*

The Right Reverend Anson Phelps Stokes, Jr., Chairman, Peter L. Albrecht, The Reverend Gilbert Caldwell, Mrs. Ellen Jackson, Mrs. Erwin C. Miller, as they are the Executive Committee of, and The Reverend James P.

Breeden, as he is the Executive Director of, the Commission on Church and Race, Massachusetts Council of Churches; Greater Boston Interdenominational Interracial Ministerial Alliance; and The Reverend Gilbert S. Avery III, Dr. and Mrs. Robert Belenky, Mr. and Mrs. William I. Bennett, The Reverend and Mrs. Edward B. Blackman, The Reverend Robert Cunnane, Mr. and Mrs. Paul Chapman, The Reverend William England, The Reverend Norman Faramelli, E. A. Furshpan, Ph.D., Mr. and Mrs. Paul K. Gazin, The Reverend and Mrs. John J. Harmon, E. A. Kravitz, Ph.D., Mrs. Bradford Patterson, The Reverend Scott Paradise, Mrs. Jane C. Peck, David D. Potter, Ph.D., The Reverend John Rutland, Richard L. Sidman, M.D., The Reverend David Siegenthaler, The Reverend John Snow, Andrew T. Weil, Merrill K. Wolf, M.D. and Joseph K. Youngerman, as they constitute Citizens for Human Rights, an unincorporated association respectfully move for leave to file a brief as *amici curiae* in support of the petitioners herein. Petitioners have orally consented to our filing of an *amicus curiae* brief but, in view of the emergency nature of this proceeding, no application therefor has been made to respondents.

Our interest is prompted by our concern with the rights of the people guaranteed by the First, Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

The interest of *amici* herein arises from the critical bearing this case has upon a cardinal principle of representative democracy embodied in the United States Constitution: that a duly elected representative who possesses all of the constitutional qualifications cannot be denied his seat on other and unrelated grounds.

The prompt resolution of this issue is not only indispensable to the proper operation of the system of representative democracy guaranteed in the United States Constitution but is also indispensable if the constitutional

rights of Negro Americans, who make up the vast majority of the constituency of the petitioner Powell, are to be secured and assured. The historic concern of this Court to secure for Negro Americans full participation in the legislative processes and thereby secure for them the basic rights guaranteed by the First Amendment to the United States Constitution can most effectively be met by an immediate hearing of this case in accordance with Rule 20 of the Court's Revised Rules.

Respectfully submitted,

PETER L. ALBRECHT,
Attorney for Amici Curiae,
The Right Reverend Anson Phelps Stokes, Jr., Chairman, Peter L. Albrecht, The Reverend Gilbert Caldwell, Mrs. Ellen Jackson, Mrs. Erwin C. Miller, as they are the Executive Committee of, and The Reverend James P. Breeden, as he is the Executive Director of, the Commission on Church and Race, Massachusetts Council of Churches; Greater Boston Interdenominational Interracial Ministerial Alliance; and The Reverend Gilbert S. Avery III, Dr. and Mrs. Robert Belenky, Mr. and Mrs. William I. Bennett, The Reverend and Mrs. Edward B. Blackman, The Reverend Robert Cunnane, Mr. and Mrs. Paul Chapman, The Reverend William England, The Reverend Norman Faramelli, E. A. Furshpan, Ph.D., Mr. and Mrs. Paul K. Gazin, The Reverend and Mrs. John J. Harmon, E. A. Kravitz, Ph.D., Mrs. Bradford Patterson, The Reverend Scott Paradise, Mrs. Jane C. Peck, David D. Potter, Ph.D., The Reverend John Rutland, Richard L. Sidman, M.D., The Reverend David Siegenthaler, The Reverend John Snow, Andrew T. Weil, Merrill K. Wolf, M.D. and Joseph K. Youngerman, as they constitute Citizens for Human Rights, an unincorporated association.

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BRIEF OF THE RIGHT REVEREND ANSON PHELPS STOKES, JR., CHAIRMAN, PETER L. ALBRECHT, THE REVEREND GILBERT CALDWELL, MRS. ELLEN JACKSON, MRS. ERWIN C. MILLER, AS THEY ARE THE EXECUTIVE COMMITTEE OF, AND THE REVEREND JAMES P. BREEDEN, AS HE IS THE EXECUTIVE DIRECTOR OF, THE COMMISSION ON CHURCH AND RACE, MASSACHUSETTS COUNCIL OF CHURCHES; GREATER BOSTON INTERDENOMINATIONAL INTERRACIAL MINISTERIAL ALLIANCE; AND THE REVEREND GILBERT S. AVERY III, DR. AND MRS. ROBERT BELENKY, MR. AND MRS. WILLIAM I. BENNETT, THE REVEREND AND MRS. EDWARD B. BLACKMAN, THE REVEREND ROBERT CUNNANE, MR. AND MRS. PAUL CHAPMAN, THE REVEREND WILLIAM ENGLAND, THE REVEREND NORMAN FARAMELLI, E. A. FURSHPAN, Ph.D., MR. AND MRS. PAUL K. GAZIN, THE REVEREND AND MRS. JOHN J. HARMON, E. A. KRAVITZ, Ph.D., MRS. BRADFORD PATTERSON, THE REVEREND SCOTT PARADISE, MRS. JANE C. PECK, DAVID D. POTTER, Ph.D., THE REVEREND JOHN RUTLAND, RICHARD L. SIDMAN, M.D., THE REVEREND DAVID SIEGENTHALER, THE REVEREND JOHN SNOW, ANDREW T. WEIL, MERRILL K. WOLF, M.D. AND JOSEPH K. YOUNGERMAN, AS THEY CONSTITUTE CITIZENS FOR HUMAN RIGHTS, AN UNINCORPORATED ASSOCIATION, *AMICI CURIAE*

The Right Reverend Anson Phelps Stokes, Jr., Chairman, Peter L. Albrecht, The Reverend Gilbert Caldwell,

Mrs. Ellen Jackson, Mrs. Erwin C. Miller, as they are the Executive Committee of, and The Reverend James P. Breeden, as he is the Executive Director of, the Commission on Church and Race, Massachusetts Council of Churches; Greater Boston Interdenominational Interracial Ministerial Allianee; and The Reverend Gilbert S. Avery III, Dr. and Mrs. Robert Belenky, Mr. and Mrs. William I. Bennett, The Reverend and Mrs. Edward B. Blackman, The Reverend Robert Cunnane, Mr. and Mrs. Paul Chapman, The Reverend William England, The Reverend Norman Faramelli, E. A. Furshpan, Ph.D., Mr. and Mrs. Paul K. Gazin, The Reverend and Mrs. John J. Harmon, E. A. Kravitz, Ph.D., Mrs. Bradford Patterson, The Reverend Scott Paradise, Mrs. Jane C. Peck, David D. Potter, Ph.D., The Reverend John Rutland, Richard L. Sidman, M.D., The Reverend David Siegenthaler, The Reverend John Snow, Andrew T. Weil, Merrill K. Wolf, M.D. and Joseph K. Youngerman, as they constitute Citizens for Human Rights, an unincorporated association have been informed that petitioners have asked this Court, pursuant to Rule 20 of its Revised Rules, to grant a writ of certiorari to review the dismissal of their complaint by the United States District Court for the District of Columbia, an appeal from which is presently pending in the United States Court of Appeals for the District of Columbia, before judgment is given there. According to Rule 20, such a writ of certiorari will be granted only "upon a showing that the case is of such imperative public importance as to justify the deviation from normal appellate processes and to require immediate settlement in this Court."

Amici are firmly convinced that this is such a case. The U.S. House of Representatives has barred from his seat the elected representative of the people of the 18th Congressional District of New York State, thus depriving his constituents (who include a substantial number of Negro Americans, residents of the Harlem community) a voice in national legislative and policy-making decisions.

The central issue of this case is whether the right of citizens of the United States to choose to be represented in the House of Representatives by any person who is not precluded from holding such office by the provisions of Clause 2 of Section 2 of Article I of the Constitution of the United States may be frustrated by the refusal of the House of Representatives to seat such a person. It should be noted, however, that this case also involves the question whether the right of Negro citizens to vote in the election of their representatives, a right still not fully realized in practice, can be frustrated by the refusal of the House of Representatives to seat a duly elected representative chosen by them. Cf. *Bond* v. *Floyd*, 385 U.S. 116 (1966).

It is submitted that the resolution of the basic question involved in this case is of such fundamental importance to the operation of the system of self-government established by the Constitution of the United States as to call for the application of Rule 20 of the Revised Rules of this Court.

CONCLUSION

The motion of petitioners to grant a writ of certiorari pursuant to Rule 20 should be granted.

Respectfully submitted,

PETER L. ALBRECHT,
Attorney for Amici Curiae,
The Right Reverend Anson Phelps Stokes, Jr., Chairman, Peter L. Albrecht, The Reverend Gilbert Caldwell, Mrs. Ellen Jackson, Mrs. Erwin C. Miller, as they are the Executive Committee of, and The Reverend James P. Breeden, as he is the Executive Director of, the Commission on Church and Race, Massachusetts Council of Churches; Greater Boston Interdenominational Interracial Ministerial Alliance; and The Reverend Gilbert S. Avery III, Dr. and Mrs. Robert Belenky, Mr. and Mrs. William I. Bennett, The Reverend and Mrs. Edward B. Blackman, The Reverend Robert Cunnane, Mr. and Mrs. Paul Chapman, The Reverend William England, The Reverend Norman Faramelli, E. A. Furshpan, Ph.D., Mr. and Mrs. Paul K. Gazin, The Reverend and Mrs. John J. Harmon, E. A. Kravitz, Ph.D., Mrs. Bradford Patterson, The Reverend Scott Paradise, Mrs. Jane C. Peck, David D. Potter, Ph.D., The Reverend John Rutland, Richard L. Sidman, M.D., The Reverend David Siegenthaler, The Reverend John Snow, Andrew T. Weil, Merrill K. Wolf, M.D. and Joseph K. Youngerman, as they constitute Citizens for Human Rights, an unincorporated association.